

## Message Text

CONFIDENTIAL

PAGE 01 STATE 263839

22

ORIGIN DHA-02

INFO OCT-01 NEA-10 ISO-00 L-03 SS-15 SP-02 CIAE-00 DODE-00

PM-04 H-02 INR-07 NSAE-00 NSC-05 PA-01 PRS-01 USIA-06

OMB-01 TRSE-00 AID-05 ACDA-07 IGA-02 /074 R

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APPROVED BY NEA/ARP:JWTWINAM

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S/S - MR. SEBASTIAN

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R 262018Z OCT 76

FM SECSTATE WASHDC

TO AMEMBASSY SANA

C O N F I D E N T I A L STATE 263839

E.O. 11652:GDS

TAGS: SHUM, MASS, YE

SUBJECT: CLEARANCE OF DRAFT HUMAN RIGHTS OBSERVANCE REPORT

REF: STATE 231122

1. SECTION 502B OF THE FOREIGN ASSISTANCE ACT OF 1961  
AS AMENDED BY THE INTERNATIONAL SECURITY ASSISTANCE ACT  
AND ARMS EXPORT CONTROL ACT OF 1976 STATES IN PARAGRAPH  
502B(B) THAT THE "SECRETARY OF STATE SHALL TRANSMIT TO THE  
CONGRESS, AS PART OF THE PRESENTATION MATERIALS FOR  
SECURITY ASSISTANCE PROGRAMS PROPOSED FOR EACH YEAR, A  
FULL AND COMPLETE REPORT ... WITH RESPECT TO PRACTICES RE-  
GARDING THE OBSERVANCES OF AND RESPECT FOR INTERNATIONALLY  
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PAGE 02 STATE 263839

RECOGNIZED HUMAN RIGHTS IN EACH COUNTRY PROPOSED AS A

RECIPIENT OF SECURITY ASSISTANCE." PARAGRAPH (D) (2) OF SECTION 502B AS AMENDED DEFINES "SECURITY ASSISTANCE" TO INCLUDE SECURITY SUPPORTING ASSISTANCE, FMS, CERTAIN COMMERCIAL SALES, CREDITS AND OTHER PROGRAMS. THE FULL TEXT OF THE AMENDED SECTION 502B WAS TRANSMITTED BY THE REFTEL.

2. AS INDICATED IN THE REFTEL, THE DEPARTMENT HAS BEEN COLLECTING AND PREPARING INFORMATION ON THE HUMAN RIGHTS SITUATIONS IN SECURITY ASSISTANCE RECIPIENT COUNTRIES IN ANTICIPATION OF SUBMITTING IT TO CONGRESS EARLY NEXT YEAR AS PART OF THE CONGRESSIONAL PRESENTATION DOCUMENT (CPD) ON SECURITY ASSISTANCE. HUMAN RIGHTS REPORTING FROM OVERSEAS POSTS, INFORMATION FROM NON-GOVERNMENTAL ORGANIZATIONS SUCH AS THE INTERNATIONAL COMMISSION OF JURISTS, AMNESTY INTERNATIONAL AND FREEDOM HOUSE, REPORTS BY INTERNATIONAL ORGANIZATIONS AND CONGRESSIONAL HEARINGS ON HUMAN RIGHTS HAVE BEEN COMPILED IN A DRAFT HUMAN RIGHTS OBSERVANCE REPORT ON EACH SECURITY ASSISTANCE RECIPIENT COUNTRY. THE DRAFT REPORT ON YEMEN IS BELOW.

3. THE DRAFT REPORT FOLLOWS A STANDARD FORMAT CALLING FOR A DESCRIPTION OF THE POLITICAL AND LEGAL SITUATION IN THE COUNTRY, A DESCRIPTIVE STATEMENT OF ACTUAL OBSERVANCE OF RIGHTS AND FREEDOMS IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS WITH SPECIFIC ATTENTION TO MATTERS SPECIFIED IN THE INCLUSION CLAUSE OF PARAGRAPH (D)(1) OF SECTION 502B AS AMENDED, AND A REFLECTION OF OTHER HUMAN RIGHTS REPORTING. THE TEXT OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS WAS TRANSMITTED TO THE FIELD AS AN ENCLOSURE TO 75 STATE A-1045.

4. THE DRAFT REPORT HAS BEEN PARTIALLY CLEARED IN THE DEPARTMENT AND IS BEING USED INTERNALLY IN THE CURRENT REVIEW OF PROPOSED PROGRAMS FOR FY 1978. BEFORE FINAL CLEARANCE IN THE DEPARTMENT CAN BE OBTAINED FOR THE DRAFT REPORT'S INCLUSION IN THE CPD AS AN UNCLASSIFIED DOCUMENT (WHICH MAY BE PUBLICLY DISCLOSED IF CONGRESS SO CHOOSES), THE DEPARTMENT REQUESTS THE EMBASSY CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 263839

CAREFULLY REVIEW, CORRECT, UPDATE AND CLEAR THE DRAFT. (UNTIL THE DRAFT IS CLEARED FOR RELEASE, HOWEVER, IT REMAINS A WORKING DOCUMENT CLASSIFIED CONFIDENTIAL UNDER THE PROVISIONS OF EXECUTIVE ORDER 11652.)

5. IN CONDUCTING ITS REVIEW, THE EMBASSY SHOULD ENSURE THAT THE INFORMATION IN THE DRAFT CONSTITUTES A "FULL AND COMPLETE REPORT--WITH RESPECT TO PRACTICES REGARDING THE

OBSERVANCE OF HUMAN RIGHTS" IN YEMEN, AS REQUIRED IN SECTION 502B(B) AS AMENDED.

6. REQUESTED ACTION: THE EMBASSY IS REQUESTED TO URGENTLY REVIEW THE ENCLOSED DRAFT AND PROVIDE COMMENTS, SUGGESTED REVISIONS, UPDATING INFORMATION, ADDITIONAL INFORMATION IN SATISFACTION OF THE REQUIREMENTS OF SECTION 502B(B) AS AMENDED, AND CLEARANCE BY TELEGRAM TO REACH THE DEPARTMENT NO LATER THAN NOVEMBER 15.

#### I. POLITICAL SITUATION

THE YEMEN ARAB REPUBLIC IS A RUGGEDLY MOUNTAINOUS COUNTRY AND ONE OF THE POOREST IN THE WORLD.

YEMEN HAS A REPUBLICAN GOVERNMENTAL STRUCTURE WHICH IS BASED ON A HIGHLY-STRUCTURED TRIBAL SOCIETY. THE PRESENT REGIME, UNDER THE LEADERSHIP OF COMMAND COUNCIL CHAIRMAN IBRAHIM AL-HAMDI, IS COMPOSED OF MILITARY AND CIVILIAN MEMBERS WHICH GOVERNS BY POLITICAL CONSENSUS AND NOT BY POLITICAL REPRESSION. THE OVERRIDING CONCERNS OF THE GOVERNMENT ARE THE CREATION OF THE RUDIMENTS OF A GOVERNMENTAL STRUCTURE AND THE MODERNIZATION OF THE ECONOMY AND SOCIETY BY EVOLUTIONARY MEANS.

THE PRESENT GOVERNMENT IS PURSUING A MODERATE DOMESTIC AND INTERNATIONAL POLITICAL COURSE. IT IS SEEKING TO DEVELOP CLOSER TIES WITH SAUDI ARABIA AND OTHER STATES, AS WELL AS WITH WESTERN COUNTRIES, INCLUDING THE UNITED STATES.

#### II. LEGAL SITUATION

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PAGE 04 STATE 263839

IN ITS PREAMBLE, THE YEMEN CONSTITUTION DECLARES THE COUNTRY'S SOLIDARITY WITH ALL NATIONS WHICH BELIEVE IN HUMAN RIGHTS, FREEDOM, EQUITY, JUSTICE AND PEACE. TWO CHAPTERS SPECIFICALLY ADDRESS PUBLIC RIGHTS AND OBLIGATIONS. HOWEVER, KORANIC LAW WHICH ESSENTIALLY REGULATES INTER-PERSONAL RELATIONS RATHER THAN ENUNCIATING THE INDIVIDUAL'S RELATIONSHIP TO THE STATE, REMAINS DOMINANT. IT IS ADMINISTERED BY RELIGIOUS COURTS WHICH ARE NORMALLY SUBORDINATE TO THE MINISTER OF INTERIOR. JUSTICE TENDS TO BE HARSH AND SWIFT.

THE GOVERNMENT IS COMMITTED TO THE INTRODUCTION OF CIVIL AND CRIMINAL COURTS IN 1977. BUT CURRENT EFFORTS TO INTRODUCE A COMMERCIAL CODE ARE MEETING WITH RESISTANCE FROM CONSERVATIVE RELIGIOUS AND TRIBAL ELEMENTS.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

A. INTEGRITY OF THE PERSON

ARTICLE 3: THE CONSTITUTION CONTAINS GUARANTEES OF LIFE, LIBERTY AND INTEGRITY OF PERSON. THEY ARE NOT, HOWEVER, ALWAYS FULLY OBSERVED IN THE CONTEXT OF THE TRADITIONAL AND SOMEWHAT HARSH PRACTICES WHICH PREVAIL.

ARTICLE 5: PRISONERS INCARCERATED IN REMOTE AREAS ARE STILL SOMETIMES SUBJECTED TO CRUEL OR INHUMAN TREATMENT. THESE PRACTICES ARE NOT SANCTIONED BY THE CENTRAL GOVERNMENT BUT IT IS NOT ALWAYS ABLE TO PREVENT THEIR OCCURRENCE IN REGIONS WHERE IT HAS LIMITED ADMINISTRATIVE CONTROL.

ARTICLE 8: SINCE THERE ARE AS YET NO CIVIL OR CRIMINAL

COURTS, YEMENIS CANNOT OBTAIN EFFECTIVE REMEDIES FROM THE COURTS FOR MANY KINDS OF ACTIONS WHICH MAY VIOLATE THEIR RIGHTS. THE RELIGIOUS COURTS HOWEVER ARE ABLE TO ASSIST IN REDRESSING GRIEVANCES WHICH ARISE IN INTERPERSONAL RELATIONS.

ARTICLE 9: LOWER LEVEL AND MILITARY OFFICIALS HAVE ARREST-CONFIDENTIAL

CONFIDENTIAL

PAGE 05 STATE 263839

ED OR DETAINED INDIVIDUALS WITHOUT ADEQUATE GROUNDS OR ON THE BASIS OF HEARSAY AND CIRCUMSTANTIAL EVIDENCE. EVEN IN THE MIDST OF A SMOOTH CABINET SHUFFLE IN 1975, THREE CABINET MEMBERS WERE BRIEFLY DETAINED AFTER PROTESTING THE PRIME MINISTER'S FORCED RESIGNATION.

THESE PRACTICES ARE AT VARIANCE WITH THE CONSTITUTION'S IDEALISTIC TERMINOLOGY AND THE FUNDAMENTAL DEMOCRATIC CONSENSUS WHICH RULES THE COUNTRY. ARBITRARY DETENTIONS ARE FORTUNATELY USUALLY BRIEF.

THERE ARE A NUMBER OF YEMENI POLITICAL EXILES FROM THE HARSH CIVIL WAR OF THE 1960S.

ARTICLE 10: THE RELIGIOUS COURTS HAVE LONG TRADITIONS OF FAIRNESS AND IMPARTIALITY. HOWEVER, HEARINGS BEFORE RELIGIOUS JUDGES ARE INTENDED MORE TO ASSURE THAT THE INJURED PARTY IN A DISPUTE OBTAINS SATISFACTION RATHER THAN TO DETERMINE THE CHARGES AGAINST A PRISONER AND GUARANTEE THAT HIS LEGAL RIGHTS ARE RESPECTED. THE WESTERN CONCEPT OF AN ARRAIGNMENT IS INCORPORATED IN THE LEGAL SYSTEM WHICH IS SCHEDULED FOR IMPLEMENTATION IN 1977.

ARTICLE 11: YEMENIS CAN OBTAIN FAIR TRIAL UNDER THE PROCEDURES PRESCRIBED BY KORANIC LAW AND WITHIN THE LIMITATIONS IMPOSED BY THE ABSENCE OF CRIMINAL AND CIVIL LAW CODES AND COURTS.

B. OTHER IMPORTANT FREEDOMS

DESPITE THE RATHER HARSH AND ARBITRARY PRACTICE OF JUSTICE IN YEMEN, THERE IS BROAD TOLERANCE OF DIVERSITY IN HUMAN CUSTOMS AND OPINIONS. THERE IS APPARENTLY NO DISCRIMINA-

TION AGAINST THE SMALL JEWISH MINORITY OR OTHER ETHNIC OR RELIGIOUS GROUPS. FREEDOM TO MOVE ABOUT THE COUNTRY IS OCCASIONALLY DISRUPTED BY LOCAL TRIBAL PARA-MILITARY ORGANIZATIONS; THE GOVERNMENT CONSTANTLY WORKS TO RESTORE SUCH FREEDOM. PROPERTY RIGHTS ARE RESPECTED.

YEMEN HAS A SMALL POLITICALLY CONSCIOUS ELITE. ALTHOUGH  
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PAGE 06 STATE 263839

THE GOVERNMENT SHOWS LIMITED TOLERATION OF PROPAGANDA ACTIVITY WHICH DIRECTLY ATTACKS THE REGIME, THE PRESS DOES FREQUENTLY ATTACK BUREAUCRATIC CORRUPTION.

FREEDOM OF ASSEMBLY IS TOLERATED. HOWEVER, THE PRESENT REGIME HAS KEPT THE LEGISLATURE, THE CONSULTATIVE ASSEMBLY, DISBANDED FROM THE OUTSET BECAUSE IT WOULD ACCORD A PRE-DOMINANT VOICE TO REACTIONARY TRIBAL ELEMENTS.

IV. OTHER HUMAN RIGHTS REPORTING

AMNESTY INTERNATIONAL'S 1974-75 ANNUAL REPORT STATED: "THIS IS STILL A COUNTRY ABOUT WHICH AMNESTY INTERNATIONAL HAS VERY LITTLE INFORMATION AS FAR AS POLITICAL PRISONERS ARE CONCERNED. THE FEW REPORTS AI HAS RECEIVED MAY NOT BE INDICATIVE OF THE ACTUAL SITUATION."

FREEDOM HOUSE HAS CATEGORIZED YEMEN AS "NOT FREE." KISSINGER

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## Message Attributes

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